

**UPDATED: 09/28/2009**

# **SEPTEMBER 2009**

# **ORAL ARGUMENT**

# **CALENDAR**

Report Updated On: 09/28/2009

Updated 09/28/2009

**SEPTEMBER, 2009**

**THERE WILL BE NO COURT MEETING**

**September 16, 2009**

**2:15 P.M. MOTION PANEL, JUDGE THOMPSON, PJ,  
JUDGE DIXON AND JUDGE KELLER.**

**PHONE NUMBERS WHERE PANEL MEMBERS CAN BE REACHED WHEN ORAL  
ARGUMENTS SCHEDULED:**

**FRANKFORT – Contact Mary Zagale - (502) 573-7920**

**MT. STERLING – Contact Dennis Human – (606) 783-8512**

**LOUISVILLE – Contact Vicki Tencer (502) 852-6092**

**HIGHLAND HEIGHTS – Contact Kathleen Johnson – (859) 572-6660**

**HODGENVILLE – Contact Larry Bell – (270) 358-3421**

**LOCATION: LARUE COUNTY COURTHOUSE, CIRCUIT COURTROOM, 209 WEST HIGH STREET, 2ND FLOOR, HODGENVILLE, KENTUCKY**

**DATE: Wednesday, September 2, 2009**

**01:30 PM PJ: TAYLOR, HON. JEFF S.**

**ACREE, HON. GLENN E.**

**THOMPSON, HON. KELLY**

**2006CA001803 GEORGE W. CAMPBELL v GINGER C. CAMPBELL**

**2006CA001827**

2006-CA-001803 and 2006-CA-001827 - Whether circuit court properly divided marital debts and property; whether circuit court properly awarded maintenance; whether circuit court erred by not awarding prejudgment interest.

**JEFFERSON COUNTY**

**HON JERRY J BOWLES**

Appellant Atty:

Appellant Name:

**CHALMERS-THOMPSON, MICHELLE  
HOLLOWAY, TERRY  
MULLOY, B.**

**CAMPBELL, GEORGE**

Appellee Atty:

Appellee Name:

**BROWN, BONNIE**

**CAMPBELL, GINGER**

**\*\* NOTE:60 MINUTE ORAL**

**LOCATION: MONTGOMERY COUNTY CIRCUIT COURTROOM, COURTHOUSE,  
ONE COURT STREET, MT. STERLING, KENTUCKY**

**DATE: Thursday, September 10, 2009**

01:00 PM PJ: STUMBO, HON. JANET L.

CLAYTON, HON. DENISE G.

HENRY, HON. MICHAEL L.

2008CA001311

**JERRY CALHOUN v VIVIAN KEITH SELLERS**

Discretionary review granted from Circuit Court affirmation of District court finding that father of deceased children had no right to recover from children's estates upon application of KRS 391.033 and 411.137, (Mandy Jo's Law). Issues are whether court properly applied Kimbler v. Arms, 102 S.W. 3d 517 (2003).

**PULASKI COUNTY**

**HON DAVID A. TAPP**

Appellant Atty:

Appellant Name:

**NORFLEET, ROBERT**

**CALHOUN, JERRY**

Appellee Atty:

Appellee Name:

**BENTLEY, BRUCE**

**SELLERS, VIVIAN**

**\*\* NOTE:**

01:45 PM PJ: STUMBO, HON. JANET L.

LAMBERT, HON. JAMES H.

HENRY, HON. MICHAEL L.

2008CA002114

**TANYA A CHILDERS v SANDRA F. GEILE**

MOR appeal from grant of summary judgment on claim of outrageous conduct. Issues are whether outrage is available as remedy when other tort recoveries are possible as a matter of law and whether an issue of material fact is presented.

**CIVIL**

**MONTGOMERY COUNTY**

**HON WILLIAM B MAINS**

Appellant Atty:

Appellant Name:

**ENGEL, HEIDI  
JOHNSON, CHARLES  
MCMILLIN, ANNE**

**CHILDERS, TANYA**

Appellee Atty:

Appellee Name:

**HERKLOTZ, JOHANN  
SMITH, KENNETH**

**GEILE, SANDRA**

**\*\* NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Tuesday, September 15, 2009**

**02:15 PM** PJ: **COMBS, HON. SARA W.** **THOMPSON, HON. KELLY** **HARRIS, HON. WILLIAM R.**  
**2008CA001082** **PATRICK O'CONNER v COMMONWEALTH OF KENTUCKY**

Conviction for three counts of criminal abuse; appellant raises evidentiary challenges as preservation problems and violations of the exclusionary rule.

<b>CRIMINAL</b>	<b>PULASKI COUNTY</b>	<b>HON DAVID A. TAPP</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
<b>SCHMIDT, KATHLEEN</b>		<b>O'CONNER, PATRICK</b>
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
<b>BARR, DAVID</b>		<b>COMMONWEALTH OF KENTUCKY</b>
.....		

**\*\* NOTE:**

**03:00 PM** PJ: **THOMPSON, HON. KELLY** **COMBS, HON. SARA W.** **HARRIS, HON. WILLIAM R.**  
**2007CA001719** **WYNNE L. CREEKMORE Jr v GREGORY L. DAVIS**  
**2008CA001165**

This appeal relates to priority of liens on real estate, a related appeal in family court, and whether the circuit court has in rem jurisdiction over a foreclosure or the family court in personam has jurisdiction over the parties and their real estate.

	<b>BOYLE COUNTY</b>	<b>HON DOUGLAS BRUCE PETRIE</b>
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
<b>CREEKMORE, WYNNE JR</b>		<b>CREEKMORE, WYNNE</b>
.....		
<u>Appellee Atty:</u>		<u>Appellee Name:</u>
<b>DAVIS, CAROLYN</b>		<b>DAVIS, CAROLYN</b>
.....		
<b>HELTON, EPHRAIM</b>		<b>DAVIS, GREGORY</b>
.....		

**\*\* NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Tuesday, September 15, 2009**

**03:45 PM PJ: COMBS, HON. SARA W.**

**THOMPSON, HON. KELLY**

**HARRIS, HON. WILLIAM R.**

**2008CA000823**

**JULIA MARTIN THORPE v COMMONWEALTH OF KENTUCKY**

Conviction for obtaining a controlled substance fraudulently and for being PFO II. Appellant challenges admission of overly prejudicial evidence, Brady violations, and conflicts allegedly requiring recusal of the prosecutor.

**CRIMINAL**

**MASON COUNTY**

**HON STOCKTON B. WOOD**

Appellant Atty:

**SCHMIDT, KATHLEEN  
YANG, ERIN**

Appellant Name:

**THORPE, JULIA**

Appellee Atty:

**MOORE, JASON**

Appellee Name:

**COMMONWEALTH OF KENTUCKY**

**\*\* NOTE:PREVIOUSLY AT 1:30 PM**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Wednesday, September 16, 2009**

10:45 AM PJ: HARRIS, HON. WILLIAM R. COMBS, HON. SARA W. THOMPSON, HON. KELLY  
2007CA001545 CHRISTOPHER TUCKER v COMMONWEALTH OF KENTUCKY

Appeal from a Washington Circuit Court judgment and sentence following the revocation of class D felony pretrial diversion.

CRIMINAL	WASHINGTON COUNTY	HON ALLAN RAY BERTRAM
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
PEARSON, JULIA		TUCKER, CHRISTOPHER
SCHMIDT, KATHLEEN		
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<u>Appellee Atty:</u>		<u>Appellee Name:</u>
ROBERTS, MICAH		COMMONWEALTH OF KENTUCKY
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\*\* NOTE:

12:15 PM PJ: THOMPSON, HON. KELLY CLAYTON, HON. DENISE G. LAMBERT, HON. JOSEPH E.  
2008CA000371 HIGHLANDS HOSPITAL CORPORATION v JESSICA PREECE  
2008CA000484

Appellant, Highlands Hospital, appeals from the jury verdict awarding lost wages in the sum of \$70,000 and finding that the hospital violated the Family Medical Leave Act when terminating their employee.

CIVIL	FLOYD COUNTY	HON DANNY P CAUDILL
<u>Appellant Atty:</u>		<u>Appellant Name:</u>
CANDIELLO, VINCENT		HIGHLANDS HOSPITAL CORPORATION
SMITH, THOMAS		
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<u>Appellee Atty:</u>		<u>Appellee Name:</u>
MCGUIRE, EARL		PREECE, JESSICA
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\*\* NOTE: PREVIOUSLY ON 8/3/09 IN FRANKFORT AND ON 7/23/09 IN LOUISVILLE

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,  
FRANKFORT, KENTUCKY**

**DATE: Wednesday, September 16, 2009**

**01:00 PM PJ: STUMBO, HON. JANET L. THOMPSON, HON. KELLY LAMBERT, HON. JOSEPH E.**

**2007CA002131 THOMAS J. SCHULTZ v GENERAL ELECTRIC HEALTHCARE FINANCIAL SERVICES,  
2007CA002180 INC.**

MOR appeal from grant of Judgment on the Pleadings per CR 12.03. Issues include whether judgment properly granted in action brought to pierce the corporate veil; whether pleading affirmative defenses sufficient to negate essential element of action, and; whether failure of Appellant to obtain personal guarantee is sufficient defense.

**CIVIL JEFFERSON COUNTY HON DENISE G. CLAYTON**

Appellant Atty:

**BRIGHTWELL, BRUCE**

Appellant Name:

**SCHULTZ, THOMAS**

Appellee Atty:

**BOWMAN, TANYA**

**CRAWFORD, STEVEN**

**SUMNER, GRIFFIN**

**WELLS, JOHN IV**

Appellee Name:

**GENERAL ELECTRIC HEALTHCARE FINANCIAL  
SERVICES, INC.**

**\*\* NOTE:**



**LOCATION: ALLEN COURTROOM, BRANDEIS SCHOOL OF LAW, UNIVERSITY OF LOUISVILLE, 2301 SOUTH THIRD STREET, LOUISVILLE, KENTUCKY**

**DATE: Wednesday, September 23, 2009**

**10:30 AM PJ: CLAYTON, HON. DENISE G. MOORE, HON. JOY A. VANMETER, HON. LAURANCE B.**

**2007CA002112 STEVEN H. KEENEY v BRENDA C. OSBORNE**

**2007CA002177**

A legal malpractice case wherein appellee recovered \$5.1 million which according to appellee are prohibited by Kentucky law.

**CIVIL JEFFERSON COUNTY HON MARTIN F MCDONALD**

Appellant Atty:

**BESHEAR, ANDREW  
BREETZ, MATTHEW  
SNYDER, SHERYL  
SUMNER, GRIFFIN**

Appellant Name:

**KEENEY, STEVEN**

Appellee Atty:

**BALLANTINE, DOUGLAS  
WHEELER, AMY**

Appellee Name:

**CAROLINA CASUALTY INSURANCE COMPANY**

**SITLINGER, LEE**

**OSBORNE, BRENDA**

**\*\* NOTE:45 MINUTE ORAL**

**LOCATION: ALLEN COURTROOM, BRANDEIS SCHOOL OF LAW, UNIVERSITY OF LOUISVILLE, 2301 SOUTH THIRD STREET, LOUISVILLE, KENTUCKY**

**DATE: Wednesday, September 23, 2009**

11:30 AM PJ: MOORE, HON. JOY A.

CLAYTON, HON. DENISE G.

VANMETER, HON. LAURANCE B.

2008CA001111 ROBERT LEE MEDLEY v JEWISH HOSPITAL, INC.

2008CA001192

2008CA001244

This is an appeal from a defense verdict, raising a number of issues of error, including jury instructions, directed verdict, evidentiary issues and other issues raised at trial. Appellee Jewish Hospital cross appeals arguing it was entitled to a directed verdict. Appellee Brey cross appeals arguing she should have been dismissed under the statute of limitations.

CIVIL

JEFFERSON COUNTY

HON MARY M SHAW

Appellant Atty:

CONWAY, F  
GARDNER, CHADWICK

Appellant Name:

MEDLEY, ROBERT

Appellee Atty:

NABER, KIMBERLEY  
SCHILLER, RICHARD JR.

Appellee Name:

BREY, NICOLE

SIMPSON, WILLIAM  
STEVENS, CLAY  
STEVENS, SALLIE

JEWISH HOSPITAL, INC.

BROWN, DANIEL  
GAZAK, DAVID

PHYSICIANS IN EMERGENCY MEDICINE, P.S.C.

MEEK, DUSTIN

TZAGOURNIS, MICHAEL

\*\* NOTE:PREVIOUSLY 11:15 AM

**LOCATION: CHASE LAW SCHOOL, MOOT COURTROOM, NUNN HALL 420, NUNN DRIVE, HIGHLAND HEIGHTS, KENTUCKY**

**DATE: Tuesday, September 29, 2009**

10:30 AM PJ: NICKELL, HON. C. SHEA

KELLER, HON. MICHELLE M.

MOORE, HON. JOY A.

2008CA001677

**SANDRA C. BROOKS v LEXINGTON-FAYETTE URBAN COUNTY HOUSING AUTHORITY**

2008CA002078

Whether Housing Authority is immune from non-wage garnishment under KRS 426.010 due to "law of the case doctrine"; whether Authority was entitled to recover expenses from Brooks for successfully opposing garnishment; whether trial court erred in rejecting Brooks' request for attorney's fees?

CIVIL

FAYETTE COUNTY

HON PAMELA R GOODWINE

Appellant Atty:

JACOBS, WILLIAM

Appellant Name:

BROOKS, SANDRA

Appellee Atty:

BAUGHMAN, BRENT

BECKER, WINIFRED

Appellee Name:

LEXINGTON-FAYETTE URBAN COUNTY HOUSING AUTHORITY

\*\* NOTE:

**LOCATION: CHASE LAW SCHOOL, MOOT COURTROOM, NUNN HALL 420, NUNN DRIVE, HIGHLAND HEIGHTS, KENTUCKY**

**DATE: Tuesday, September 29, 2009**

11:15 AM PJ: KELLER, HON. MICHELLE M. NICKELL, HON. C. SHEA LAMBERT, HON. JOSEPH E.

2008CA000305 **TECO MECHANICAL CONTRACTOR, INC v ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**

Labor Cabinet charged Teco with categorizing skilled laborers as laborers and underpaying them on public works jobs. Teco challenged the constitutionality of various provisions of KRS 337 and lost. Teco appeals from a circuit court judgment finding KRS 337 constitutional and awarding approximately \$63,000 in wages to the employees and fining Teco \$9,000.

CIVIL FRANKLIN COUNTY HON PHILLIP J. SHEPHERD

Appellant Atty:

CALVERT, GERRY  
GUARNIERI, DAVID  
VELANDER, DAVID

Appellant Name:

TECO MECHANICAL CONTRACTOR, INC

Appellee Atty:

MATTINGLY, JOSEPH III

BORNSTEIN, H.

HINKLE, BUCKNER JR  
RICH, IVAN JR

BIZZELL, MARK

CUTLER, IRWIN JR

HOFFMAN, EVERETT

Appellee Name:

ASSOCIATED BUILDERS AND CONTRACTORS  
OF KENTUCKIANA, INC.

ASSOCIATION GENERAL CONTRACTORS, INC.

D. W. WILBURN, INC.

ENVIRONMENTAL AND PUBLIC PROTECTION  
CABINET

KY. STATE BUILDING & CONSTRUCTION  
TRADES COUNCIL, AFL-CIO

\*\* NOTE: